S.B.Criminal Misc. Petition No.561/2005
(Surendra Kumar Agarwal vs. State of Rajasthan)

Date of order : 13.7.2006

HON'BLE MR.H.R.PANWAR,J.

Mr.G.R.Goyal, for petitioner.

This criminal misc. petition under section 482 Cr.P.C. is directed against the order dt. 31.3.2005 passed by Judicial Magistrate, Sri Gangangar (for short `the trial court' hereinafter), whereby the trial court took the cognizance of the offences under sections 323 and 341/34 I.P.C. and issued the process against the petitioner. Aggrieved by the order impugned, the petitioner has filed the instant misc. Petition.

The matter earlier came up before this court by way of criminal misc. petition No.1/98. While allowing the petition, this Court set aside the orders dt. 22.10.1996 and 17.10.1997 passed by the trial court in criminal case No.320/96 and remitted the matter back to the trial court with a direction to pass appropriate orders afresh as per law in the light of the observations made in the order after affording an opportunity of hearing to the petitioners. The trial court afforded the opportunity of hearing to the petitioners as also other party. Upon hearing both the parties and on perusal of the material

placed before it by the police investigation agency, the trial court took the cognizance.

I have heard learned counsel for the petitioner. Carefully gone through the order impugned. The order is well reasoned.

It is contended by learned counsel for the petitioner that there was no application seeking condonation of delay in taking cognizance before the trial court, yet the trial court condoned the delay. The arguments was advanced by the parties before the trial court on the point of delay in taking cognizance. In exercising the powers under section 473 Cr.P.C., the trial court by well reasoned order, condoned the delay and took the cognizance and in my view the order impugned does not suffer from any error, illegality or perversity, it would not result in serious miscarriage of justice and manifest injustice, on the contrary, it is just and proper and does not require interference under section 482 Cr.P.C.

Consequently, the misc. petition is dismissed. Stay petition also stands dismissed.

[H.R.PANWAR],J.

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